



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OCT 21 2002

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

Mr. Don Steck
Conservation Reserve Program
U.S. Department of Agriculture
Farm Service Agency
1400 Independence Avenue, SW
Washington, DC 20250-05130

Dear Mr. Steck:

The Environmental Protection Agency (EPA) has reviewed the Farm Service Agency's (FSA's) Draft Programmatic Environmental Impact Statement (EIS) for the Conservation Reserve Program Implementation and Expansion. Our review is pursuant to the National Environmental Policy Act, Council on Environmental Quality regulations (40 CFR Parts 1500-1508), and Section 309 of the Clean Air Act.

EPA supports the proposed efforts by the FSA to implement changes in the Conservation Reserve Program based on the requirements of the 2002 Farm Bill (Alternative 3 - Proposed Action). However, we also believe there are many environmental benefits that would result from the geographical focus of the Environmental Targeting alternative (Alternative 4) that deserve serious consideration.

The targeting alternative would maximize environmental benefits from the Conservation Reserve Program (CRP) by establishing regional priorities such as reductions in non-point source loadings, including sediments, pesticides, herbicides and nutrients that contribute to algal blooms, dead zones and fish kills. Targeting would, therefore, increase our ability to effectively implement the watershed approach and ultimately address national issues such as Gulf of Mexico hypoxia and prairie pothole wetlands restoration and protection.

Given the beneficial aspects of the Environmental Targeting Alternative, we recommend that the FSA work to include, to the maximum extent practicable, the components of the Environmental Targeting Alternative into the Proposed Action Alternative.

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We have assigned the Draft Programmatic EIS for the Conservation Reserve Program a rating of **LO (Lack of Objections)** (see enclosed "Summary of EPA Rating System" for a more detailed definition of the ratings). Additional, more detailed comments regarding the Draft Programmatic EIS are enclosed. If you have any questions, please call me or Cliff Rader of my staff at (202) 564-7159.

Sincerely,

A handwritten signature in black ink, appearing to read "Anne N. Miller".

Anne Norton Miller
Director
Office of Federal Activities

Enclosures

cc: CRP Draft PEIS Comments
PO Box 6830
Falls Church, VA 22040-6830

SUMMARY OF RATING DEFINITIONS AND FOLLOW-UP ACTION

Environmental Impact of the Action

LO--Lack of Objections

The EPA review has not identified any potential impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

EC--Environmental Concerns

The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact. EPA would like to work with the lead agency to reduce these impacts.

EO--Environmental Objections

The EPA review has identified significant environmental impacts that must be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

EU--Environmentally Unsatisfactory

The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potential unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the CEO.

Adequacy of the Impact Statement

Category 1--Adequate

EPA believes that draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

Category 2--Insufficient Information

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analyzed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses, or discussion should be included in the final EIS.

Category 3--Inadequate

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analysed in the draft EIS, which should be analyzed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the NEPA and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEO.

**Enclosure 2: EPA Detailed Comments
Farm Service Agency
Draft Programmatic Environmental Impact Statement
Conservation Reserve Program
October 2002**

Documentation of Environmental Benefits

The Draft Programmatic EIS does not adequately represent the CRP's recent environmental accomplishments, as new incentives have doubled enrollment of the most environmentally beneficial practices in just one year. As a result, the CRP's accomplishments under all of the Alternatives (except the baseline) far exceed what is represented in the Draft Programmatic EIS.

The EIS needs to cite the literature which supports the potential benefits that result from enrollment of the stream buffers and grassed waterways which are the focus of its Proposed Action and Environmental Targeting Alternatives. It then needs to document that buffer incentives are effective under *both* the Conservation Reserve Program Continuous Sign-Up (CCRP) and the CREP that their enrollments more than double every year. The specific text dealing with Total Maximum Daily Loads (TMDLs), water quality, and species protection could then be modified in a manner consistent with the above changes. We reference peer reviewed literature that support our proposed changes.

Recent CRP Accomplishments

Erosion reductions and certain wildlife benefits resulting from the general sign-up of the CRP are large, and the Draft Programmatic EIS does a good job of documenting that these benefits constitute an important difference between its Current Program, Alternative 2 for the CRP, and its No Program, Alternative 1 (or baseline). However, the Draft Programmatic EIS's comparison between its Proposed Action, Alternative 3, and its Environmental Targeting, Alternative 4, focuses on perceived differences between the CCRP, used by both Alternatives, versus the CREP, which expands under the Environmental Targeting Alternative.

CCRP incentives to enroll buffers and grassed waterways were raised in 2001 to levels virtually comparable to the CREP incentives for those key practices. As a result, enrollment in the CCRP doubled, from 1 million acres to 2 million acres, in one year (perhaps while the Draft Programmatic EIS was being written). Although the Draft Programmatic EIS suggests that the CREP offers much better targeting of local environmental opportunities than the CCRP, a clearer description of their respective, current targeting mechanisms would suggest that the CCRP and the CREP now offer remarkably similar incentives to farmers. The CREPs focus their incentives in virtually all cases on buffer practices directed at certain *priority watersheds* identified by states, but CREP incentives are not much larger than the incentives offered *nationwide* by

CCRP, under both the Proposed Action and the Environmental Targeting Alternatives.

Since stream buffers and grassed waterways play such a large role for all of the Alternatives, except for the baseline, it is important to provide adequate documentation regarding their benefits, particularly in all of the text dealing with CCRP and CREP (including pages 5-5, 5-6, 5-8, 5-17, 5-33, 5-34, and, especially page 5-35). While this Draft Programmatic EIS text identifies the benefits from filtering sediment on each of the above pages, it does not document benefits resulting from biological processes which break down herbicides in buffers and grassed waterways. These biological processes often result in documented herbicide loading reductions of over 80 percent (National Research Council, 1993; Hall, Hartwig, and Hoffman, 1983; Rohde, Asmussen, Hauser, Wauchope, and Allison, 1980).

In the same sections identified above, the Draft Programmatic EIS also needs to cite literature documenting an average of 95 percent loading reductions of nitrate in the shallow groundwater, which the research attributed primarily to denitrification (Spruill, 2000). This denitrification is important to the ecosystem because Spruill found that shallow ground water accounts for 70 percent of streamflow in his study's 28 North Carolina watersheds. Spruill was building on earlier studies with similar findings regarding nitrate loading reductions from buffers in lowland streams (National Research Council, 1993; Haycock and Pinay, 1993; Jacobs and Gilliam, 1985). The above information is particularly relevant to water quality and TMDL sections of the EIS (page 5-18), since the above study's comparison between 14 buffered streams and 14 non-buffered streams occurred in the Neuse watershed. The Neuse is the focus of a North Carolina CREP program as well as a North Carolina TMDL program, both of which provide buffer enrollment incentives to achieve specific nitrate loading reduction goals.

Aquatic species benefits are identified in the Draft Programmatic EIS for around 40,000 CRP acres in riparian wetland practices, which include benefits to amphibians, fish, and crustaceans which make up most of the threatened and endangered species in the U.S. Yet, buffers provide such benefits along streams on a much larger CRP acreage than that. Why not include the potential benefits to aquatic species from enrollment of stream buffers in each of the above CRP Alternatives?

Lee and Lovejoy's research suggests that, before the CRP targeted buffer enrollments, only 2 million acres of land adjacent to continually flowing streams, as identified by US Geological Survey maps, was cropped. USDA analyses suggest that there may have been as little as 6 million acres adjacent to continually flowing--plus intermittent streams--in areas targeted by CCRP and CREP programs. This is relevant to the above CCRP and CREP discussions: With 2 million acres enrolled in the CCRP, already, and enrollments doubling each year, USDA has an opportunity to protect *most* currently cropped areas adjacent to streams. The Final Programmatic EIS needs to articulate that both the Proposed Action Alternative and the Environmental Targeting Alternative potentially can achieve the large benefits offered by buffer restoration.

CRP Benefits from Existing Targeting

On page 5-36, the Draft Programmatic EIS offers a CREP-like option (or SETA) for encouraging buffer enrollments along the Clinch River in Virginia in order to address the largest number of endangered species of any river in the U.S. under its Environmental Targeting Alternative. However, the Virginia CREP and the national CCRP both *already* provide such a bonus incentive to encourage farmers in the Clinch River drainage to enroll buffers. Since these benefits from buffers are already being pursued, they need to be identified under the Proposed Action Alternative (which continues current approaches) as well as the Environmental Targeting Alternative.

On page 5-18, the last sentence regarding TMDLs suggests that, because enrollment is "not mandatory" under CCRP or CREPs, "potential to positively impact TMDLs is minor." This greatly understates the role that incentives can play, the effectiveness of the lands targeted for enrollment by the CCRP and CREP, and the ability of state and federal programs to complement each other (as occurs in the Neuse CREP and TMDL programs cited above). The EIS needs to be revised to document the potential to enroll much, or most, of the buffer areas targeted, as well as the documented loading reductions that can occur for the most pervasive nutrient, sediment, and herbicide problems addressed by TMDLs and by other water quality programs.

The last paragraph on page 5-5 and the first paragraph on page 5-18 suggest that USDA will barely hold its own in enrolling areas targeted by CCRP and CREPs, as some contracts expire. This is not consistent with USDA's published data on enrollments which show that enrollment of lands targeted by CCRP and CREP is more than doubling each year. The revision needs to document the progress that is being made using the new bonus incentives USDA is offering under CCRP and CREPs.

References

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